

MAR 25 2022

OSM

U.S. COURT OF FEDERAL CLAIMS

In the United States Court of Federal Claims**OFFICE OF SPECIAL MASTERS**

Filed: March 9, 2022

* * * * *	*	
A.F.P.,	*	UNPUBLISHED
	*	
Petitioner,	*	No. 21-1990V
v.	*	
	*	Special Master Dorsey
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	Motion for Redaction.
	*	
Respondent.	*	
* * * * *	*	

A.F.P., pro se, for petitioner.Tyler King, United States Department of Justice, Washington, DC, for respondent.**ORDER GRANTING PETITIONER'S MOTION FOR REDACTION**¹

On February 22, 2022, petitioner filed a motion to redact the undersigned's February 7, 2022 Order Concluding Proceedings and the undersigned's February 8, 2022 Decision Awarding Costs. Petitioner's Motion to Redact Information on Decisions ("Pet. Mot."), filed Feb. 22, 2022 (ECF No. 20). For the foregoing reasons, petitioner's motion is **GRANTED**.

I. RELEVANT PROCEDURAL HISTORY

On October 8, 2021, A.F.P. ("petitioner") filed a petition in the National Vaccine Injury Compensation Program.² Petitioner alleged that she suffered shoulder pain and polymyalgia

¹ The undersigned intends to post this Order on the United States Court of Federal Claims' website. **This means the Order will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), petitioners have 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished order contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2012) ("Vaccine Act" or "the Act"). All citations in this Order are to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

rheumatica as a result of a pneumococcal conjugate (“Prevnar 13”) vaccination on October 8, 2018. Petition at 1 (ECF No. 1).

On February 7, 2022, the undersigned issued an Order Concluding Proceedings. Order Concluding Proceedings dated Feb. 7, 2022 (ECF No. 17). On February 8, 2022, the undersigned issued a decision awarding costs, awarding petitioner \$402.00 in costs. Decision Awarding Costs dated Feb. 8, 2022 (ECF No. 18).

On February 22, 2022, petitioner filed a motion to redact her name to initials in the Order Concluding Proceedings and Decision Awarding Costs. Pet. Mot. at 1. In support of this request, petitioner states her “[d]isclosing [p]etitioner’s name in association with her medical conditions constitute an unwarranted invasion of [p]etitioner’s privacy. In additional, removal of [p]etitioner’s name and using [p]etitioner’s initial takes nothing away from the Court’s requirement to post a reasoned explanation of these Decisions on the United State[s] Court of Federal Claim[s]’ website.” Id. Respondent did not file a response.

This matter is now ripe for adjudication.

II. DISCUSSION

A motion for redaction is governed by section 12(d)(4)(B) of the Vaccine Act. See § 12(d)(4)(B). That section provides that information concerning “medical files and similar files” may be redacted if its disclosure “would constitute a clearly unwarranted invasion of privacy.” Id. What constitutes a “clearly unwarranted invasion of privacy” requires balancing petitioner’s “right of privacy against the public purpose of the Vaccine Act.” W.C. v. Sec’y of Health & Hum. Servs., 100 Fed. Cl. 440, 460 (2011), aff’d, 704 F.3d 1352 (Fed. Cir. 2013). While a petitioner has an interest in keeping sensitive medical or other embarrassing information private, the public has an interest in disclosure, so as to increase public awareness of vaccines and the medical conditions they may or may not cause. Id. at 461. In other words, sensitive information is often the subject of the litigation, and “in cases where sensitive information is the subject of the dispute, that information is routinely disclosed in decisions, to enable the reader to follow and understand the decision maker’s rationale.” Castagna v. Sec’y of Health & Hum. Servs., No. 99-411V, 2011 WL 4348135, at *13 (Fed. Cl. Spec. Mstr. Aug. 25, 2011).

Although the Vaccine Rules make mandatory the redaction of a minor’s name, adult petitioner’s names, which are not similarly protected automatically, may also be redacted if the petitioner establishes proper grounds for redaction. See R.V. v. Sec’y of Health & Hum. Servs., No. 08-504V, 2016 WL 3776888, at *2 (Fed. Cl. Spec. Mstr. May 10, 2016) (“[A] petitioner needs to make some showing to justify the relief of redaction; redaction is not available simply at a petitioner’s beck and call.”). The undersigned will permit redaction in cases, such as this, where a specialized showing is made.

The facts and circumstances of this case warrant redaction of petitioner’s name to initials. Petitioner made an adequate showing for redaction. **Accordingly, petitioner’s motion for redaction of her name in the decision to initials is GRANTED.**

Thus, the public versions of the order concluding proceedings and decision award damages shall be redacted to include only petitioner's initials, A.F.P. Moreover, the undersigned further directs the clerk to amend the case caption³ to the following:

* * * * *	*
A.F.P.,	*
	*
Petitioner,	*
	*
v.	*
	*
SECRETARY OF HEALTH	*
AND HUMAN SERVICES,	*
	*
Respondent.	*
	*
* * * * *	*

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master

³ If either party objects to the undersigned's redaction of the case caption, a motion requesting the undersigned to reconsider redaction of the case caption may be filed.